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WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

LAFAYETTE DIVISION

JOSHUA SAVOY

CIVIL ACTION NO. 06-1021

VERSUS

JUDGE DOHERTY

UNITED STATES OF AMERICA,
THROUGH THE DEPARTMENT
OF THE NAVY

MAGISTRATE JUDGE METHVIN

ORDER ON MOTION TO DISMISS

Pending before the Court is a Motion to Dismiss under Fed. R. Civ. P. 12(b)(1) filed by the defendant, the United States of America through the Department of the Navy (collectively, the "government"), on August 18, 2006 [Doc. 3]. The government seeks dismissal of plaintiff's claim filed under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2675, *et seq.* Specifically, the government argues this Court lacks subject matter jurisdiction over plaintiff's claims because the government is entitled to sovereign immunity.

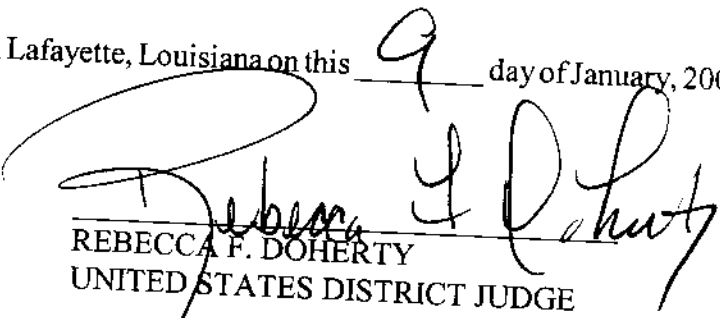
Under the FTCA, the government has not waived its sovereign immunity for claims arising out of assault or battery. 28 U.S.C. § 2680 (h). The government contends plaintiff's claims arise out of assault or battery committed by Joseph Sampy, a Navy recruiter at the time of alleged injury. Accordingly, the government argues this Court lacks subject matter jurisdiction because the government is entitled to sovereign immunity. The government's motion is unopposed.¹

¹ Per the December 22, 2006 Minute Entry issued by this Court in this matter [Doc. 13], plaintiff had until 4:00 p.m. on Friday, January 5, 2007, to file pleadings that set forth with clarity and specificity Plaintiff's positions with respect to the unique facts and law of this matter. To date, plaintiff submitted no pleadings in response. A review of plaintiff's complaint in this matter reveals plaintiff specifically asserts Mr. Sampy "sexually assaulted and battered plaintiff." *See, e.g., Plaintiff's Complaint*, paragraphs 3 and 7(d).

Upon a review of the applicable jurisprudence and the Motion and Memorandum in Support filed by the government, the Court finds the government is entitled to sovereign immunity as to plaintiff's claims against the government in this matter.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED the Motion to Dismiss [Doc. 3] for lack of subject matter jurisdiction over plaintiff's claims the United States is hereby GRANTED, and these claims are DISMISSED WITH PREJUDICE.

THUS DONE AND SIGNED in Lafayette, Louisiana on this 9 day of January, 2007.


REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE

Counsel for the parties are to SUBMIT a Judgment Consistent with this Order within ten (10) days.